

## Notice of Allowability

Application No.

10/622,967

Examiner

Patricia L. Hailey

Applicant(s)

BOGAN ET AL.

Art Unit

1755

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to an amendment and Terminal Disclaimers filed on December 8, 2004.
2. ☒ The allowed claim(s) is/are 4-6.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Applicants' remarks and amendments filed on December 8, 2004, have been carefully considered. No claims have been canceled or added; claims 4-6 remain pending in this application.

Claim 4 has been amended to change "45C" to "45°C".

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

*The application has been amended as follows:*

*a. Please replace the first paragraph on page 1 of the Specification with the following paragraph:*

*-- This non-provisional application is a divisional of non-provisional U.S. Patent Application No. 10/117,944, filed April 8, 2002, now ~~allowed~~ U. S. Patent No. 6,645,906, benefit of which is claimed under 35 U.S.C. § 120 and which in turn claims benefit under 35 U.S.C. § 1.19(e) of U.S. provisional Application No. 60/287,506, filed April 30, 2001, priority benefit of which is also claimed for the present application.--*

The Specification has been amended to update the status of parent Application No. 10/117,944.

***Allowable Subject Matter***

1. Claims 4-6 are allowed.

***Reasons for Allowance***

2. The following is an examiner's statement of reasons for allowance:

Applicants' Terminal Disclaimers filed on December 8, 2004, are sufficient to overcome the following double patenting rejections stated in the previous Office Action:

1. The obviousness-type double patenting rejection of Claim 4 as being unpatentable over claims 1-5 of U. S. Patent No. 6,407,031.
2. The obviousness-type double patenting rejection of Claim 4 as being unpatentable over claims 1-5 of U. S. Patent No. 6,407,280.
3. The obviousness-type double patenting rejection of Claim 4 as being unpatentable over claims 1-6 of U. S. Patent No. 6,403,525.
4. The obviousness-type double patenting rejection of Claims 5 and 6 as being unpatentable over claims 1-4 of U. S. Patent No. 6,472,522.
5. The obviousness-type double patenting rejection of Claim 5 as being unpatentable over claim 1 of U. S. Patent No. 6,710,207.
6. The obviousness-type double patenting rejection of Claim 6 as being unpatentable over claim 10 of copending Application Serial No. 10/722,281.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Hailey whose telephone number is (571) 272-1369. The examiner can normally be reached on Mondays-Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark L. Bell can be reached on (571) 272-1362. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 1700 Receptionist, whose telephone number is (571) 272-1700.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patricia L. Hailey/plh  
Examiner, Art Unit 1755  
January 21, 2005

  
DAVID SAMPLE  
PRIMARY EXAMINER